UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,928	09/29/2000	Bret S. Hildebran	00AB074	9398

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EXAMINER
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ART UNIT	PAPER NUMBER
2638	

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

	Application No.	Applicant(s)
Advisory Action *Before the Filing of an Appeal Brief*	09/675,928	HILDEBRAN ET AL.
	Examiner	**Art Unit**
	Chieh M. Fan	2638

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>02 August 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☒ The Notice of Appeal was filed on <u>02 August 2005</u>. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

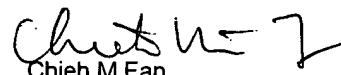   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

Chieh M Fan
Primary Examiner
Art Unit: 2638

Response to Arguments

1.   Applicant's arguments filed 8/2/05 have been fully considered but they are not

persuasive.

The applicants once again argue that the references DiCarlo and Husted do not

teach the limitation " ... a module operatively connected to the communications link, the

module having an activation interval for controlling periodic activation relative to at least

one of an input and an output thereof; wherein the module is programmed to

synchronize the activation interval thereof relative to the coordinated system time base

value."

<u>With respect to the DiCarlo reference</u>

(a) The applicants argue that *DiCarlo is silent with regard to a module having an*

activating interval. In the Office Action dated Sept. 7, 2004, the Examiner incorrectly

asserts that such claim aspects are disclosed at Fig. 3, element 14, and col. 3, ll. 57-60,

citing that the modules within the rack that may include, for example, a power supply

module, a processor module, two communication modules, two I/O modules, and a

power supply module. It seems that by the disclosure of different types of modules, the

examiner asserts that DiCarlo discloses a module having an activation interval.

However, such an assertion clearly lacks the element of an activation interval, an

element.

Response --- The portion cited (element 14) by the examiner is merely to identify

the location of a module. The examiner has also referred to the description in col. 5,

line 66 through col. 6, line 7 and explained in previous Office Actions that DiCarlo

teaches the claimed invention. In particular, DiCarlo teaches that *different modules 14a*

and 14b separated from each other spatially and through links of backplane 16a and

high speed communication link 27b may be instructed to executed a certain action, for

example, the starting of a motor or the sampling of a signal, at a common CST value

sometime in the future. DiCarlo also teaches that *each module tracks the CST value by*

means of its internal clock, ..., then independently executes the desired action when the

predetermined CST value is indicated in its internal clock (col. 6, lines 10-15). On the

other hand, the applicants only broadly claim "an activation interval". An "activation

interval", according to its plain meaning, is only an interval (of time) that activates or

initiates a certain action. Since DiCarlo teaches that the module executes the sampling

of a signal when the predetermined CST value is indicated in the internal clock, DiCarlo

clearly teaches a time interval that activates or initiates the action of sampling a signal

(when the internal clock indicates the CST value). Throughout the prosecution of the

instant application, the applicants persistently argue that DiCarlo does not teach an

activation interval because DiCarlo does not teach the RST values. The applicants are

reminded that although the claims are interpreted in light of the specification, limitations

from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims never recite the RST values

are stored in the module. The claims only broadly recite an activation interval.

(b) The applicants also argue that *DiCarlo discloses activation of a module via a*

command external to the module, DiCarlo is clearly precluded from disclosing activation

of a module by means of internal to the module as set forth in the subject claims.

Alternatively stated, DiCarlo is silent with regard to a module having an activation

interval for controlling periodic activation.

Response --- The applicants' argument is rather confusing. The claims only

recite "the module having an activation interval for controlling periodic activation." The

word "external" or "internal" does not even occur in the claim. As explained above,

DiCarlo teaches that the module executes the sampling of a signal when the

predetermined CST value is indicated in the internal clock. As the action of sampling is

activated and executed within the module, DiCarlo clearly teaches an interval within the

module (tracked by the internal clock) that activates the action of sampling a signal.

(c) The applicants further argue that *DiCarlo does not teach a module*

programmed to synchronize the activation interval thereof to the coordinated system

time base value as recited in the subject claims. More particularly, as discussed supra,

the module of the invention as claimed have an RTS value stored in the module

memory. The RTS value is the value of the sampling interval and is a programmable

value. Such programmability is apparent in the example offered above, namely if a

subsequent module is connected to the same backplane and configured to employ the

same RTS time, the subsequent module, in accordance with the subject invention, will

automatically synchronize. DiCarlo nowhere teaches a module programmed to

synchronize the activation interval thereof to coordinated system base value.

Response --- The fact the RTS value is programmable may be broadly claimed

as "a module programmed ...", but it cannot be used as the only interpretation of how

the claim should be interpreted. The applicants are again reminded that although the

claims are interpreted in light of the specification, limitations from the specification are

not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed.

Cir. 1993). The claims never recite that the RTS value is programmable. Instead, the

claims only recite "a module programmed". DiCarlo teaches that different modules 14a

and 14b separated from each other spatially and through links of backplane 16a and

high speed communication link 27b may be <u>instructed</u> to execute a certain action (col.

6, lines 2-5). The teaching of "different modules ... maybe instructed" clearly meets the

broadly claimed limitation "a module programmed". Furthermore, DiCarlo also teaches

each module generally incorporates a microprocessor and related circuitry and operates

according to a local stored program (col. 1, lines 35-37). The microprocessor maybe a

general processor providing <u>for the sequential execution of instructions</u> contained in the

memory 36 (col. 4, lines 45-47). The memory holds <u>programs executed</u> by the

microprocessor to provide the functions (col. 4, lines 61-62). Different modules 14a and

14b separated from each other spatially and through links of backplane 16a and high

speed communication link 27b may be <u>instructed</u> to <u>execute</u> a certain action, for

example, the starting of a motor or the sampling of a signal, at a common CST value

sometimes in the future (col. 6, lines 2-7). Therefore, the cited portions above clearly

teach the claimed "a module programmed to synchronize the activation interval thereof

to coordinated system base value."

<u>With respect to the Husted reference</u>

The applicants basically apply the same arguments with respect to DiCarlo reference above toward the Husted reference. It is noted that Husted also teaches modules execute a certain action, for example, the start of a motor or the sampling of a signal, at a common CST value T some time in the future (col. 6, lines 40-47). Each module tracks the CST value by means of its internal clock (col. 6, lines 48-49). If a series of samples at precise times are required, the module executes the desired action when the predetermined time T is equal to the CST value indicated in the internal clock or when the CST value is equal to the predetermined T plus integer multiple of a predetermined sampling period (i.e., periodic; see col. 7, lines 37-45; also see claim 4). Further, Husted also teaches, "programming the modules to perform the control action" (col. 13, lines 45-46). Since the teaching of Husted is similar to that of DiCarlo, the arguments applied to Husted are also not persuasive.